

Remarks

Claims 1-35 are currently pending and stand rejected. Claims 1, 8, 10, 12, 13, 20, 27, 29, and 30 have been amended. Claims 4, 14, and 31 have been cancelled.

Applicants assert that the claims are now in condition for allowance as set forth more fully below.

Interview Summary

The undersigned participated in a telephone interview with the Examiner on January 31, 2005. During the interview, it was discussed whether the Pithawala reference discloses a request or ping that passed through a router and beyond it or whether the request is to the router itself such that the router does not forward the request deeper into the network. The Examiner argued that Pithawala discloses requests being sent to switches where the requests are inherently forwarded through routers in order to be delivered to the switches.

103 Rejections

Claims 1, 2, 3, 5, 6, 8, 9, 20, 21, 23, 25, and 26 stand rejected under 35 USC 103(a) as being unpatentable over various combinations of Pithawala (US Pat 6,747,957) in view of Donahue (US Pat 5,835,721) and/or, in some cases, other references. Claims 10-14, 15, 16-18, and 27-34 stand rejected under 35 USC 103(a) as being unpatentable over various combinations of Kaffine (US Pat 6,654,914) in view of Gidwani (US Pat 6,640,239) and/or, in some cases, other references. Applicants respectfully traverse these rejections.

Claims 1-9

The Office Action has rejected claim 1 by stating that Pithawala discloses all of the elements except for the display of the notification message that the network connection is unavailable, but the Office Action states that Donahue discloses displaying a message regarding whether a computer is available through a network connection.

Amended claim 1 recites, among other things, automatically sending a request from a user computer that is connected to a wide area network by the router which is

connected to a modem, the request being sent via the router and the modem toward a first Internet Protocol (IP) address of a backbone of the wide area network to which a response is expected such that the request is sent through and beyond the router and the modem. Amended claim 1 further recites determining, in the user computer, whether the response has been received from the first IP address of the backbone of the wide area network and when the response has not been received from the first IP address, then automatically sending a request from the user computer via the router and modem toward a second IP address of the backbone of the wide area network and determining, in the user computer, whether the response has been received from the second IP address of the backbone of the wide area network. Additionally, amended claim 1 recites that if no response has been received from the first IP address or the second IP address, displaying a notification message on the user computer indicating that network access to the wide area network is unavailable.

Thus, as recited in claim 1, the request is sent through a router and modem and then deeper into the wide area network to a first IP address. Thus, this request is not simply sent through some router out in the wide area network but is sent through a router between the end use computer and the modem. Further, if a response is not received, then a request is sent again through the router and modem and then deeper into the wide area network to a second address. Thus, the method makes a second attempt to request a response. The notification of no network access is then provided when both attempts to request and receive a response fail.

Claim 1 is allowable over Pithawala in view of Donahue for several reasons. As a first reason, these references fail to show requests being sent to the wide area network by sending them from an end user computer through a router and through a modem connected to the wide area network. Pithawala shows a direct link between the monitor and the wide area network including the interconnected routers and switches and does not provide for a router and modem connection of an end user computer to the wide area network. Donahue fails to even show a computer connected to a wide area network but instead shows a wireless, peer-to-peer connection between computers and therefore, Donahue also fails to show a router and modem connection to a wide area network through which requests are sent.

As a second reason, these references fail to show that a request is sent to a first IP address and that when it fails to respond, only then a request is sent to a second IP address. Further, these references fail to show that upon the first and second request attempts to the first and second IP addresses failing, only then displaying the notification message that the network is unavailable. Pithawala pings individual devices on the wide area network to determine the individual devices' availability in order to determine pathway availability and is not concerned with basic access to wide area network via a router and modem nor providing a notification message regarding whether access via the router and modem is available. Furthermore, because Pithawala is concerned with individual device availability, as opposed to basic network availability, there is no pinging of a second IP address only when a first IP address fails to respond since Pithawala is always pinging to each of the individual devices to continually monitor which of the devices are available. Donahue also fails because

Therefore, these references taken singly or in combination fail to disclose all of the elements of claim 1 such that claim 1 is allowable over these references for at least these reasons. Dependent claims 2, 3, and 5-9 depend from an allowable claim 1 and are also allowable for at least the same reasons.

Claims 10-19

The Office Action has rejected claim 10 by stating that Kaffine discloses all of the elements except the router being in the path of communication between the user computer and the DSLAM. However, the Office Action states that Gidwani discloses a router between a CPE LAN and a DSLAM and that it would be obvious to place the router of Gidwani between the user computer and DSLAM of Kaffine. In this rejection the Office Action equates the IDU of Kaffine to the end user computer, and then points to DSLAM 68 and router 64 and states that the user computer 140 with an attached IDU repeatedly transmits a PING request toward DSLAM 68 and router 64.

Amended claim 10 recites, among other things, periodically and automatically sending from at least one of the user computers towards a first network address of a DSL Access Multiplexer (DSLAM) a request to which a response is expected, the request being sent through the router that is located in a path of communication between the at

least one of the user computers and the DSLAM. Amended claim 10 further recites determining if the response is received and if not response then automatically sending from the at least one of the user computers towards a second network address of the DSLAM a request to which a response is expected, the request to the second network address being sent through the router that is located in the patch of communication between the at least one of the user computers and the DSLAM. Additionally, claim 10 recites displaying a first notification message on the at least one user computer when no response is received from either the first network address or the second network address and displaying a second notification message on the at least one user computer when the response from either the first or the second network address is received.

Claim 10 is allowable over the cited references for various reasons. Initially, it should be noted that the first request is periodically and automatically sent, and then only when it fails to receive a response, the second request is automatically sent. Kaffine fails to disclose periodically and automatically sending any request towards a DSLAM from a user computer. Initially, Applicants point out that the IDU of Kaffine is not a user computer as asserted in the Office Action. To the contrary, the IDU is a stand-alone device. While the IDU may be present at the user premises, the IDU serves the purpose of simulating the user computer to the network, or simulating the network to the user computer for purposes of diagnostics. See col. 9 lines 18-20 and lines 37-41. Thus, the IDU cannot both simulate the user computer and be the user computer. Furthermore, Gidwani also does not disclose a user computer generating such requests to a DSLAM. Therefore, claim 10 is allowable over Kaffine in view of Gidwani for at least this reason.

Furthermore, the IDU of Kaffine does not periodically and automatically send a single request via the router to a first network address of the DSLAM, much less send a second request via the router to a second network address of the DSLAM when the first request fails to receive a response. To the contrary, the IDU requires that the user intervene and establish a dial-up or other connection to the IDU to instruct it to begin the diagnostics process. Therefore, the IDU does not automatically generate requests, neither for a first request nor for a second request that occurs only when the first request fails. Gidwani also fails to disclose a user computer generating such requests to a DLSAM

automatically. Therefore, claim 10 is allowable over Kaffine in view of Gidwani for this additional reason.

Dependent claims 11-13 and 15-19 depend from an allowable claim 10 and are also allowable for at least the same reasons.

Claims 20-26

The Office Action has rejected claim 20 on the same basis as the rejection of claim 1. However, amended claim 20 includes recitations similar to those of claim 1. Therefore, claim 20 is allowable over Pithawala and Donahue, singly or in combination, for the same reasons noted above for claim 1. Dependent claims 21-26 depend from an allowable claim 20 and are also allowable for at least the same reasons.

Claims 27-35

The Office Action has rejected claim 27 on the same basis as the rejection of claim 10. However, amended claim 27 includes recitations similar to those of claim 10. Therefore, claim 27 is allowable over Kaffine and Gidwani, singly or in combination, for at least the same reasons noted above for claim 10. Dependent claims 28-30 and 32-35 depend from an allowable claim 27 and are also allowable for at least the same reasons.


Conclusion

Applicants assert that the application including claims 1-3, 5-13, 15-30, and 32-35 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: February 2, 2005


Jeramie J. Keys
Reg. No. 42,724

Withers & Keys, LLC
P.O. Box 71355
Marietta, Ga 30007-1355
(404) 849.2093